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U.S. Citizenship
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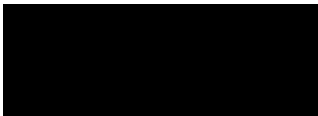


DN

DEC 07 2004

FILE: EAC 03 161 52902 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:

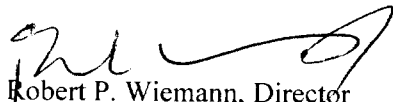


PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to employ the beneficiary temporarily in the United States as a nonimmigrant intracompany transferee with specialized knowledge pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director determined that the petitioner had failed to demonstrate that the beneficiary's proposed position required the services of an individual possessing specialized knowledge, nor had it established that the beneficiary possessed specialized knowledge, as required under 8 C.F.R. § 214.2(l)(3)(ii).

The regulation at 8 C.F.R. § 214.2(l)(3) further states that an individual petition filed on Form I-129 shall be accompanied by:

- (i) Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (l)(1)(ii)(G) of this section.
- (ii) Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii) Evidence that the alien has at least one continuous year of full time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv) Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.

Section 214(c)(2)(B) of the Act, 8 U.S.C. § 1184(c)(2)(B), provides the following:

For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

Furthermore, the regulation at 8 C.F.R. § 214.2(l)(1)(ii)(D) defines "specialized knowledge" as:

[S]pecial knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

After determining that the initial petition lacked sufficient evidence to demonstrate that the beneficiary possessed specialized knowledge, the director issued a request for additional evidence. Specifically, the director requested that the petitioner submit probative evidence establishing that the beneficiary's knowledge was uncommon, noteworthy, or distinguished by some unusual quality and was not generally known by practitioners in the

beneficiary's field of endeavor. In addition, the director requested the petitioner to substantiate that the beneficiary held an advanced level of knowledge of the processes and procedures of the petitioning company which distinguished him from those with only elementary or basic knowledge, in addition to demonstrating that the beneficiary's knowledge would enhance the U.S. employer's productivity, competitiveness, image, or financial position.

The petitioner responded by asserting that the beneficiary was to fill the position of Assistant Manager with the U.S. entity, which is a technology consulting firm. The petitioner submitted a detailed statement which established that the beneficiary was well-versed in computer hardware and software systems. However, this allegation did not establish that the beneficiary's skills and experience distinguished him from other similarly trained employees of the company.

Additionally, the petitioner alleged that the proposed position required an employee who has an in-depth knowledge of its processes, specifically, familiarity with the petitioner's quality assurance methodologies that will eventually receive a Level 5 rating under the [REDACTED] (CMM). The director found, however, that although these procedures are significantly complex, there was no evidence in the record to suggest that these methods were significantly different from other methods used in the computer consulting industry.

Finally, the director found that although the beneficiary had been employed for a significant amount of time by the petitioner, and that specialized knowledge of the type at issue in this case was traditionally obtained after twelve to eighteen months of pertinent work experience, the petitioner had failed to discuss the number of additional employees who were similarly trained and possessed similar backgrounds to the beneficiary. The director determined that the petitioner's failure to submit this evidence precluded an examination of this issue and therefore raised doubts as to whether the beneficiary's knowledge was truly specialized.

Consequently, the director denied the petition, concluding that "specialized knowledge" is not necessary attained if an employee has experience working for a company such as the petitioner, which has a specialized accreditation.

On appeal, the petitioner states on the Form I-290B that "[the petitioner] believes that with his background and working knowledge of our processes and procedures, [the beneficiary] is eligible for an L-1B visa." The petitioner support this statement with a five-page letter restating the beneficiary's background, experience, and training. The petitioner does not introduce any new evidence not previously submitted, and most importantly, the petitioner fails to specifically identify why it believes the director's decision was in error.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The petitioner here has not addressed the reasons stated for the denial and has not provided any additional evidence. Although the petitioner provides an additional statement in addition to the form I-290B, it never specifically addresses the director's basis for the denial, nor does it seek to clarify why the director's conclusions were erroneous. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.